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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT SEATTLE

11 NATALIE BRUESCH,

12 Plaintiff,

13 v.

14 WINCO FOODS,

15 Defendant.

16 CASE NO. 2:22-cv-00113-TL

17 ORDER DISMISSING COMPLAINT
18 WITH LEAVE TO AMEND

19 On January 29, 2022, Plaintiff Natalie Bruesch filed a complaint against Winco Foods in
20 Edmonds, Washington. Dkt. No. 1-1 at 2. Plaintiff Bruesch is bringing this case without an
21 attorney to represent her (in other words, *pro se*). *See generally id.*

22 On March 14, 2022, Plaintiff Bruesch's motion to proceed *in forma pauperis* was granted
23 because she appears to financially qualify for that status pursuant to 28 U.S.C. § 1915(a)(1). Dkt.
24 No. 5. In that order, the United States Magistrate Judge recommended review of the complaint

1 under 28 U.S.C. § 1915 (e)(2)(B). *Id.* The Court is required to dismiss a case if it determines that
 2 the action “fails to state a claim on which relief may be granted.” 28 U.S.C. § 1915(e)(2)(B)(ii).

3 Federal courts are courts of limited jurisdiction, meaning that they can only hear certain
 4 types of cases. *Home Depot U.S.A., Inc. v. Jackson*, 139 S. Ct. 1743, 1746 (2019) (internal
 5 citation omitted). The typical bases for federal jurisdiction are established where (1) the
 6 complaint presents a federal question “arising under the Constitution, laws, or treaties of the
 7 United States” or (2) where the parties are diverse (*e.g.*, residents of different states) and the
 8 amount in controversy exceeds \$75,000. 28 U.S.C. §§ 1331, 1332.

9 Plaintiff alleges that she was exiting a store in September 2020 when two store
 10 employees approached her; Plaintiff alleges that one of the store employees grabbed her “with
 11 excessive force” and then “shove[d]” her into an “interrogation room.” Dkt. No. 1-1 at 5.
 12 According to her account, the employee then told police she had assaulted him, and Plaintiff
 13 “spent the night in jail for trying to defend [herself] from the attack.” *Id.* She alleges damages of
 14 \$375,000 due to physical and emotional harm. *Id.*

15 The only cause of action presented in Plaintiff Bruesch’s complaint is under 18 U.S.C.
 16 §241, for conspiracy against rights. Dkt. No. 6 at 3. This is a federal criminal statute that private
 17 citizens cannot enforce. *Aldabe v. Aldabe*, 616 F.3d 1089, 1092 (9th Cir. 1980). Because Plaintiff
 18 Bruesch cannot bring a civil suit on the basis of this statute, her complaint fails to state a claim
 19 upon which relief can be granted. *See, e.g., Mendoza v. Inslee*, 3:19-cv-06216-BHS, 2020 WL
 20 1271574, at *4 (W.D. Wash. Mar. 17, 2020) (dismissing, among other things, a claim brought
 21 under 18 U.S.C. § 241). This Court does not appear to have subject matter jurisdiction over this
 22 case as Plaintiff has neither plead a proper federal cause of action nor established diversity
 23 jurisdiction.

This Court liberally construes pleadings filed by *pro se* litigants and holds them “to less stringent standards than formal pleadings drafted by lawyers.” *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (per curiam) (internal citation omitted). But a court “should not supply essential elements of the [*pro se*] claim that were not initially pled.” *E.g., Henderson v. Anderson*, 2:19-cv-00789-RAJ, 2019 WL 3996859, at *1 (W.D. Wash. Aug. 23, 2019) (internal citation and quotation omitted); *see also Khalid v. Microsoft Corp.*, 409 F. Supp. 3d 1023, 1031 (W.D. Wash. 2019) (“[C]ourts should not have to serve as advocates for *pro se* litigants.” (quoting *Noll v. Carlson*, 809 F.2d 1446, 1448 (9th Cir. 1987))). Also, “it is axiomatic that *pro se* litigants, whatever their ability level, are subject to the same procedural requirements as other litigants.” *Muñoz v. United States*, 28 F.4th 973, 978 (9th Cir. 2022). The Court is also mindful that, except where “it is ‘absolutely clear that the deficiencies of the complaint could not be cured by amendment,’ ” that a *pro se* plaintiff should be given opportunity to amend their complaint. *Schucker v. Rockwood*, 846 F.2d 1202, 1203–04 (9th Cir. 1988) (per curiam) (internal citations omitted).

Therefore, Plaintiff Bruesch's claims are dismissed without prejudice. She may file an amended complaint within **thirty (30) days** of this Order (*i.e.*, by June 16, 2022).

Dated this 17th day of May 2022.

Tana Lin
Tana Lin
United States District Judge